

### **REMARKS**

Applicant respectfully requests entry and consideration of the following remarks even though presented after a final rejection. Applicant submits that the remarks do not raise new issues or require a new search. Further, entry and consideration of the remarks may isolate issues for potential allowance or appeal. The remarks were not presented earlier in the prosecution due to a better understanding of the Examiner's position as reflected in the latest Office Action.

#### **Summary**

Claims 1-52 stand in this application. Claims 49-52 have been withdrawn. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

#### **35 U.S.C. § 102**

At page 2, paragraph 4 of the Office Action claims 1-17, 22-34, 37 and 42-48 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Number (USPN) 6,474,117 to Okuno ("Okuno"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that the teaching of Okuno is different than the teaching of

claims 1-17, 22-34, 37 and 42-48 and thus they define over Okuno. For example, claim 1, in relevant part, recites:

the linear clamp having a slot to retain said tack body, and  
to **move in a substantially linear direction in response to  
a force to release said tack body from said slot.**  
(emphasis added)

According to the Office Action, this language is disclosed by Okuno at items 3 and 36.

Applicant respectfully disagrees.

Okuno fails to disclose the missing language of claim 1. Okuno at column 2,  
lines 53-57; column 4, line 60 through column 5, line 3; and column 5, lines 19-28,  
wherein items 3 and 36 are discussed, in relevant part, states:

The clamp member 3 is **rotatably supported by a pivot**  
provided inside the housing 1, **permits the clamp portion**  
**34 to be disengaged from the pin 21 when rotated about**  
**the pivot** in one direction and is given an elastic repulsive  
force against the rotation. Column 2, lines 53-57 (emphasis  
added).

a spring clamp member 3 is disposed inside the housing 1  
of the tag 10. The clamp member 3 is **rotatably** supported  
on the housing lower half segment.... The clamp member  
3 has a spring piece 36 which is retained at its outer end on  
the lower half segment 11 by engagement therewith. **The**  
**spring piece 36 is elastically deformed by**  
**counterclockwise rotation** of the main body 31 to **exert a**  
**clockwise repulsive force.** Column 4, line 60 through  
column 5, line 3 (emphasis added).

the probe 7 is inserted into the clamp member...to push the  
main body 31 of the clamp member 3 with the probe end  
against the elasticity of the spring piece 36.... **This rotates**  
**the clamp member 3 counterclockwise, thereby**  
**disengaging the clamp portion 34 of the clamp member**  
**3 from the pin 21** of the attaching member 2.... Column  
5, lines 19-28 (emphasis added).

In contrast, the claimed subject matter teaches “the linear clamp having a slot to retain said tack body, and to move **in a substantially linear direction** in response to a force to release said tack body from said slot.” Applicant respectfully submits that rotating the clamp portion to disengage the pin, as taught by Okuno, and moving “in a substantially linear direction...to release said tack body from said slot” are different. Consequently, the teaching of Okuna is different than that of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2-17 and 22-24, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Okuno.

Claims 25 recites features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claim 25 is not anticipated and is patentable over Okuno for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 25. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 26-34, 37 and 42-48 that depend from claim 25, and therefore contain additional features that further distinguish these claims from Okuno.

**35 U.S.C. § 103**

At page 9, paragraph 5 of the Office Action claims 18-21 and 38-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Okuno. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection. For at least the reasons offered above with respect to the §102 rejection, the

applicants respectfully submit that dependent claims 18-21 and 38-41 are patentable as each depends from a patentable independent claim.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-48 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC



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John F. Kacvinsky, Reg. No. 40,040  
Under 37 CFR 1.34(a)

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